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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,606	02/12/2002	Sharon A. Free	124-830	4819

7590 08/20/2003

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EXAMINER

COONEY, JOHN M

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 08/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,606

Applicant(s)

FREE ET AL.

Examiner

John m Cooney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) / ✓
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5&6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB-858,127 in view of Kelly et al.

GB-858,127 discloses preparations of hydrophilic polyester polyurethane foams wherein polyols having hydroxyl values encompassing of the claims and isocyanates are reacted in the presence of additives and thereafter treated with a NaOH solution to form open-celled products (see the entire document). Although NCO indices are not particularly recited, it is apparent that such values are evident and fairly envisioned by the relative amounts of reactants employed in the examples. Though absorptive values are not recited as defined by applicants' claims, such values are held to be inherent features of the disclosure of GB-858,127 owing to the similarity of reactants and treatments utilized. GB-858,127 further recognizes the use of castor oil (double cell former), adipic acid/diethylene glycol based polyols, silicone stabilizers, water, and catalysts in their preparations.

GB-858,127 differs from the claims in that silicone stabilizers are not particularly required in their polyester polyol based formulations. However, Kelly et al.(4,670,477) discloses preparations of polyester based polyurethanes wherein silicone based stabilizers are utilized for their known stabilizing and cell control effects (see column 7

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lines 5-23 {GB-858,127 recognizes the cell control effects within its teaching}).

Accordingly, it would have been obvious for one having ordinary skill in the art to have utilized silicone stabilizing surfactants as taught by Kelly et al. in the preparations of the polyester polyurethane foams of GB-858,127 in order to arrive at the products and/or processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

GB-858,127 differs from the claims in that gelling and blowing catalyst combinations are not required. However, Kelly et al. discloses combinations of these catalysts for their catalytic effect in related foam preparations(see column 6 lines 13-66). Accordingly, it would have been obvious for one having ordinary skill in the art to have utilized the catalysts of Kelly et al. in the preparations of GB-858,127 in order to arrive at the products and/or processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

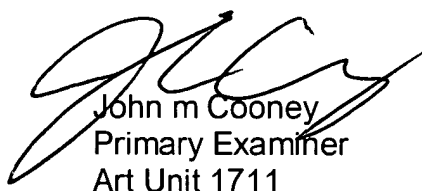
GB-858,127 differs from the claims in that antimicrobials/biocide are not explicitly required. However, Kelly et al. discloses their conventional use to be known in related foam formulations for the purpose of imparting their stated effect (see column 7 line 44). Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the biocides of Kelly et al. in the preparations of GB-858,127 in order to arrive at the products and/or processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kelly et al.('467 & '196) and Mattesky are cited for their relevant disclosures in the related urethane foam arts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John m Cooney whose telephone number is 703-308-2433. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, james seidleck, can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.


John m Cooney
Primary Examiner
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